

economic harm. The DEIR/DEIS fails to adequately evaluate the environmental consequences of the proposed IID transfer project and fails to identify feasible mitigation measures that will reduce or avoid significant environmental harm to the surrounding communities and irreplaceable natural resources. By relying upon a predicted future baseline that greatly exaggerates the future degradation of the Salton Sea absent the proposed project, the DEIR/DEIS minimizes many of the significant adverse environmental impacts that the project will have on the existing physical environment. By minimizing the project's significant impacts, the DEIR/DEIS absolves the lead agencies of any responsibility to adequately mitigate the project's harm to the environment.

COMMENTS ON THE WATER TRANSFER DEIR/DEIS

I. READABILITY OF DEIR/DEIS

The organizations appreciate the fact that the proposed project is complex and that the existing physical environment that it significantly impacts is equally complex, diverse, and particularly unique and irreplaceable. So, we are not surprised that this 2-volume document is extensive, but, nonetheless, even though we anticipated that the document would be lengthy, we have found this document daunting in its language and length. We believe the document to be full of excessive technical jargon. To a fault the document overrelies on technical analyses and computer modeling that is confusing to the reader. The DEIR/DEIS analysis of Hydrology and Water Quality is 159 pages. The document's analysis of Biological Resources is another 203 pages.

The CEQ regulations and CEQA Guidelines encourage agencies doing an EIS or an EIR on a complex project to limit the text to 300 pages.¹ The CEQ regulations state neither the reader nor the decision-maker needs an encyclopedic dissertation of the technical aspects of the proposed action.² Unfortunately, there is a great deal of historical and political information that should have been either edited out or put into an historical appendix and merely referenced. To say that the text is ponderous is to be charitable. For example, on the sections dealing with hydrology and biological resources the reader must review an exhausting dissertation of regulatory framework, and existing environmental setting before the reader even gets to the heart of the environmental review – the project's significant effects on the environment.

Ultimately the extensive description of the existing environmental setting is made irrelevant for purposes of evaluating environment effect based upon predictive computer models, which direct the evaluation of the project's significant effects on "predicted" future baseline conditions. Within the hydrology section the DEIR/DEIS uses an additional 11 pages in an attempt to explain the development and implementation of the predictive computer modeling programs. Because the explanation is so technical, the text literally defies the CEQ regulations' and CEQA Guidelines' requirement that the text of the environmental document be written in plain language

¹ 40 CFR 1502.7; CEQA Guidelines, § 15141.

² 40 CFR 1502.2(a).

Response to Comment G25-2

Incorporation of detailed hydrological and biological information was deemed necessary to adequately analyze the potential direct and indirect effects of the Proposed Project on these and other resources in accordance with state and federal environmental laws (including NEPA and CEQA and the Endangered Species Act). To the extent possible, hydrological modeling information and information pertaining to the Habitat Conservation Plan were included as appendices to the Draft EIR/EIS (see Appendices C and F). The purpose of providing the Table of Contents is to allow readers to understand the structure of the document, so that if they are interested in a particular subject, they can go directly to the sections related to that subject. For example, a reader needn't read the entire Environmental Setting section before reading the Impacts section if Impacts are what most interest the reader. The reader can refer back to the relevant section of the Environmental Setting for background if necessary.

The preparation of environmental review documents presents a challenge in that the audience encompasses a broad range of parties, from the general public on one end to technical experts from public agencies and/or interested organizations on the other. The general public may prefer a simple explanation of impacts whereas technical experts often insist on having the detailed background information that is the basis for each conclusion. We attempt to balance these interests.

Response to Comment G25-3

Please refer to the Master Responses on *Hydrology—Development of the Baseline* and *Biology—Approach to Salton Sea Habitat Conservation Strategy* in Section 3 of this Final EIR/EIS. With implementation of the Salton Sea Conservation Strategy, the elevation of the Salton Sea will be maintained at Baseline levels until at least the year 2030.

The complexity of this Project and the tools used to evaluate the Project made the preparation of the EIR/EIS inherently challenging. We have made an effort to summarize information and present it clearly to the extent possible. We regret if some information was difficult to understand.

In response to the commenter's complaint that the paragraph regarding the Salton Sea Accounting Model is difficult to understand, it has been

Response to Comment G25-3 (continued)

revised (see subsection 3.1 under Section 4.2, Text Revisions of this Final EIR/EIS). We hope that this version is more understandable to the commenter.

"The Salton Sea Accounting Model can be run in two different modes. These are identified as stochastic and deterministic modes of operation. Both operate on an annual time step, which means that the model performs calculations once for each year. In stochastic mode, the model simulates a different sequence of hydrologic conditions each time the model is run. Running the model in this fashion takes into consideration that future hydrologic conditions at the Salton Sea are not likely to be exactly in the pattern as what occurred historically. In the deterministic mode, the model assumes that historic hydrologic conditions will be repeated in the future in exactly the same pattern." (Draft EIR/EIS p. 3.1-99)

(avoiding technical jargon) so that the public may rapidly understand the document.³ The following excerpt from the explanation of the Salton Sea accounting model⁴ speaks for itself:

The Salton Sea Accounting Model incorporates the ability to perform stochastic and deterministic simulations of Salton Sea conditions. The Salton Sea Accounting Model operates on an annual time step. Deterministic simulations of the Salton Sea Accounting Model assume that the hydrologic and salt load variability of the Sea would repeat in the future exactly in the same pattern each time the Salton Sea is simulated. Stochastic implies that different hydrologic conditions are sampled and used in each simulation.

The EIR/EIS consultants have simply written a document for their peers and not for the general public. This ponderous document is simply inaccessible to the average reader. The sheer size and the technical nature of the writing precludes rather than includes public participation and review. Because the proposed project will have significant adverse irreversible effects on the area's quality of life, both IID and BOR have an obligation to reach out to the communities affected. The proposed project's significant adverse impacts on the Salton Sea will adversely affect tribal lands and traditions. Since many of the workers employed in the predominantly agricultural communities within the project areas are Hispanic, at least the Executive Summary should have been translated into Spanish.

The CEQ Recommendations on Environmental Justice encourage the BOR to "use innovative approaches to overcome linguistic, institutional, cultural, economic, and historic barriers to effective participation, including: [¶] translate important documents." The Environmental Justice section of the DEIR/DEIS focuses on the project's impacts on low income and minority populations, but the document fails to reach out to these communities and improve their opportunity to effectively participate in the environmental review of the proposed project.

The organizations believe the DEIR/DEIS should be rewritten consistent with the CEQ Regulations and CEQA Guidelines and then recirculated for public review and comment, so that its information is more accessible to the general public. Otherwise, we believe that the communities that will be affected by the significant adverse environmental consequences of the proposed project have been precluded from any meaningful opportunity to participate in the process.

II. ENVIRONMENTAL SETTING AND BASELINE

At section 3.1.3, the DEIR/DEIS describes the "Existing Setting" for Hydrology and Water Quality for the proposed project.⁵ At section 3.2.3, the DEIR/DEIS describes the "Existing

Response to Comment G25-4

Incorporation of detailed technical information into the EIR/EIS was necessary to adequately analyze the potential direct and indirect effects of the Proposed Project in accordance with state and federal environmental laws (including NEPA and CEQA, and the Endangered Species Act). To the extent possible, detailed technical information, including modeling data, was included as appendices to the document. Summary tables for each technical resource area were provided throughout the Draft EIR/EIS and in the Executive Summary in an effort to make the documents conclusions accessible. The document is unarguably extremely complex which reflects the nature of the Proposed Project and thus the analysis of the environmental impacts.

Copies of the Draft EIR/EIS were made available at several public locations. These include local libraries in the potentially affected geographic region of influence, on the IID Public Web Site, Reclamation and IID offices. All of these locations were identified in the Public Notice of Availability published in the following newspapers: *Desert Sun*, *El Sol Del Valle*, *Imperial Valley Press*, and *San Diego Union Tribune*. Hardcopies and/or CD-ROM versions of the Draft EIR/EIS were also available by request from IID and the Reclamation.

In accordance with NEPA, public scoping meetings were held with the general public to identify the scope of the environmental analysis of the Draft EIR/EIS and to identify significant issues that should be addressed in the Draft EIR/EIS. Six public scoping meetings were conducted between October 12 and October 20, 1999 to solicit input from the public on potential environmental impacts, the significance of impacts, the appropriate scope of the environmental assessment, proposed mitigation measures, and potential alternatives to the Proposed Project. In addition, after release of the Draft EIR/EIS in January 2002, three public hearings were conducted on April 2, 3, and 4 to receive comments on the adequacy of the environmental document. The Notice of Intent and Notice of Preparation were made available at the public scoping meetings in both English and Spanish. Notices of the occurrence of all public meetings were published in both English and Spanish newspapers and a Spanish interpreter was present at the El Centro and La Quinta public meetings.

³ 40 CFR 1502.8; CEQA Guidelines, § 15140.

⁴ DEIR/DEIS, p. 3.1-99.

⁵ See DEIR/DEIS § 3.1.3, at pp. 3.1-9 to 3.1-89.

Response to Comment G25-4 (continued)

Agency coordination meetings were also held with Cooperating, Responsible, and Trustee Agencies (as defined by NEPA and CEQA), as well as with the Native American Tribes that could be affected by the direct and/or indirect effects of the federal actions associated with the Proposed Project and alternatives in April 2000. Subsequent consultation meetings have been held with the Torres-Martinez Tribe.

Response to Comment G25-5

Copies of the Draft EIR/EIS were made available at several public locations. These include local libraries in the potentially affected geographic region of influence, on the IID Public Website, and at the USBR and IID offices—all of which were identified in the Public Notice of Availability published in the following newspapers: *Desert Sun*, *El Sol Del Valle*, *Imperial Valley Press*, and *San Diego Union Tribune*. Hard-copies and/or CD-ROM versions of the Draft EIR/EIS were also available by request from IID and USBR.

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Agency coordination meetings were held with potential Cooperating (as defined by NEPA) and Responsible and Trustee Agencies (as defined by CEQA), as well as with Native American Tribes potentially affected by the federal action associated with the Project (i.e., the diversion of Colorado River water at Parker Dam) in April 2000. Consultation with the Indian Tribes was considered an integral part of the environmental review process to seek information about tribal interests, desires, issues, and the location of and potential impacts to sacred sites, traditional use areas, and ceremonial sites. For NEPA purposes, all Tribal consultations were conducted on a Government-to-Government basis.

Response to Comment G25-6

The commenter states that the Draft EIR/EIS should be rewritten and recirculated. Section 15088.5 of the CEQA Guidelines governs recirculation of a Draft EIR prior to certification. Recirculation is only required when "significant new information" is included in the Final EIR, such as information showing that: (1) a new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented; (2) a substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted to reduce the impact to a level of insignificance; (3) a feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the Project, but the Project's proponents decline to adopt it; or (4) the Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

The Lead Agencies have carefully reviewed the comments received on the Draft EIR/EIS, the responses to comments, and the revisions and information incorporated into the Final EIR and have determined that none of the bases for recirculating the EIR/EIS are applicable. It is noted that Section 15088 of the CEQA Guidelines encourages the evaluation of and response to issues raised by public comments. To provide a thorough assessment for consideration by the Lead Agencies and other agencies taking action on the Project, a detailed response to comments has been included. Although extensive, the responses to comments do not justify recirculation. For more information see Chapter 1 of this Final EIR/EIS.

Response to Comment G25-7

Please refer to the Master Response on *Hydrology—Development of the Baseline* in Section 3 of this Final EIR/EIS.

Setting" for Biological Resources for the proposed project.⁶ Both of these sections of the DEIR/DEIS provide highly detailed discussions culminating in the most recent studies documenting environmental conditions as they presently exist at and in the Sea.⁷

However, the Water Transfer DEIR/DEIS then abandons that environmental setting, and instead relies on a predictive model to provide a future "Baseline" for determining the proposed project and alternatives' impacts, the significance of those impacts, and the need for mitigation measures to reduce or avoid those impacts. The Water Transfer DEIR/DEIS' methodology is in fundamental conflict with CEQA for at least the following reasons:⁸

A. FAILURE TO USE THE EXISTING ENVIRONMENTAL SETTING AS THE BASELINE

CEQA requires that a lead agency prepare an EIR for any project that it proposes to carry out or approve that may have a significant effect on the environment.⁹ An EIR must include, among other things, a detailed statement setting forth "[a]ll significant effects on the environment of the proposed project."¹⁰ CEQA statutorily defines the "environment" to be "the physical conditions

Response to Comment G25-8

Please refer to the Master Response on *Hydrology—Development of the Baseline* in Section 3 of this Final EIR/EIS.

⁶ See DEIR/DEIS § 3.2.3, at pp. 3.2-13 to 3.2-90.

⁷ See DEIR/DEIS § 3.1.3.3, at pp. 3.1-66 to 3.1-89 (describing historical and present environmental setting for the Salton Sea's surface water resources); § 3.2.3.2, at pp. 3.2-22 to 3.2-88 (describing existing environmental conditions for biological resources in the IID water service area, All American Canal ("AAC"), and Salton Sea.

⁸ This comment focuses on CEQA's procedural and substantive requirements, and the implications of the DEIR/DEIS' erroneous use of a projected "baseline" for CEQA analysis. Although CEQA and NEPA do differ significantly in certain respects (see, e.g., discussion at pp. 31-36 of Remy, et al., Guide to the California Environmental Quality Act (10th ed., 1999) [hereinafter "Guide to CEQA"]), when both CEQA and NEPA apply to a project, they both require that the analysis begin from a baseline of physical conditions as they exist at the time of the proposed project. (Compare CEQA Guidelines, § 15125, subd. (a) [environmental setting of project normally constitutes "baseline" for analysis, and is established at time of notice of preparation], with 40 C.F.R. § 1502.15 [requiring succinct description of environment or area(s) to be affected].) Both CEQA and NEPA require analysis of a distinct No Project alternative as compared to the environmental setting/affected environment "baseline." (See CEQA Guidelines, § 15126.6; 40 C.F.R. § 15024.14.) And, CEQA and NEPA both require analysis of significant cumulative impacts of the proposed project when combined with other past, present and reasonably foreseeable future projects. (See CEQA Guidelines, § 15130, subd. (a); 40 C.F.R. 1508.7.) This comment focuses on these synonymous aspects of the two statutes. If for some reason the NEPA result were to vary, the fact remains that the DEIR/DEIS is inconsistent with CEQA's requirements. Therefore, the DEIR/DEIS cannot be certified under state law in any event.

⁹ See Pub. Resources Code § 21100, subd. (a).

¹⁰ Pub. Resources Code § 2110, subd. (b)(1).

which exist within the area which will be affected by a proposed project including land, air, water, minerals, flora, fauna, noise, [and] objects of historic or aesthetic significance."¹¹

In elucidating and implementing these statutory mandates, the CEQA Guidelines require that an EIR include "a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published."¹² "This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant."¹³ In other words, CEQA *statutorily requires* that the "baseline" for environmental analysis of a proposed Project consist of a snapshot of the physical environment, frozen at that moment in time where contemplation begins of the proposed project's potentially significant environmental effects. Equally seductive arguments about establishing the baseline based upon predicted future events or activities have been rejected by the California courts. As one court concluded:

The better approach . . . [is] to follow the general rule expressed in the Guidelines and cases that baseline conditions are normally to be determined as of the time environmental review is begun. This most closely describes the environment "as it exists before the commencement of the project."¹⁴

For example, in the planning and zoning context, California's Appellate Court has stated that CEQA requires that the impacts of a proposed project are *not* to be incrementally measured against impacts that might foreseeably occur in the absence of the proposed project.¹⁵ Rather, they are to be measured against the existing condition of the environment: "CEQA nowhere calls for evaluation of the impacts of a proposed project on an existing general plan; it concerns itself with the impacts of the project on the environment, defined as the existing physical conditions in the affected area."¹⁶

The DEIR/DEIS does, in fact, provide an overly detailed review of the existing environmental conditions at the Salton Sea with regard to Hydrology and Water Quality and to Biological Resources. However, rather than follow CEQA's statutory command that this snapshot of existing conditions be used as the baseline for environmental analysis, the Water Transfer

¹¹ Pub. Resources Code § 21060.5 (emphasis added).

¹² CEQA Guidelines, 15125, subd. (a) (emphasis added).

¹³ *Ibid.*

¹⁴ *Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 126; see *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 955, "[a]n EIR must focus on impacts to the existing environment, not hypothetical situations."

¹⁵ See CEQA Guidelines, § 15125, subd. (c); *Environmental Planning and Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 354 (hereinafter "EPIC").

¹⁶ *EPIC, supra*, 131 Cal.App. 3d at p. 354.

DEIR/DEIS instead develops a future "baseline" based on a predictive model. The model takes into consideration a bevy of past, present and future demands on the Salton Sea's water sources (while explicitly ignoring potentially beneficial contributions to the Sea through proposed Salton Sea conservation and restoration programs) to create a bleak, *future* "baseline" forecasting a Sea in terminal decline.

The Water Transfer DEIR/DEIS cannot be certified because it fails to use the *existing* environmental setting as the statutorily mandated baseline for environmental review. The Water Transfer DEIR/DEIS has only analyzed the impacts of the proposed Project and its alternatives relative to the conditions that might occur in 75 years, as predicted by the Salton Sea Accounting Model. But, the forward-looking Model's predictions do not, and cannot, provide the statutorily required, frozen snapshot of the Sea's *existing* environmental conditions.

The environmental analysis in the Water Transfer DEIR/DEIS is inadequate as a matter of law because it does not disclose "the impacts of the project on the *environment*, defined as the *existing* physical conditions in the affected area" – instead, it only discloses the proposed Project's impacts on the Salton Sea Accounting Model's 75-year predictions.¹⁷

B. BIASED HYDROLOGIC ASSUMPTIONS USED IN DEVELOPING BASELINE

The accounting model employs biased hydrologic assumptions that minimize the relative impacts of the proposed project. The most egregious example is the unsubstantiated assumption that the 1988 IID/MWD water conservation program will decrease inflows to the Salton Sea by roughly 0.1 MAFy, effective immediately.¹⁸ This assumption has no basis in the historical record,¹⁹ which shows that in the 12 years prior to implementation of the program, IID's average annual use was 2.73 MAF. In the 12 years in which the conservation program has been in effect, IID's average annual use (less the amount transferred to MWD) was 2.92 MAF. Even in the three most recent years of the conservation program, when the quantity of water transferred was at or near its maximum of roughly 0.1 MAFy, IID's average annual use (less the amount transferred to MWD) was 2.93 MAF, 0.2 MAFy *more* than IID's average annual use without the conservation program.²⁰ Despite this historical record, the DEIR/DEIS employs a hydrologic model that assumes that IID's average annual use will decrease by the amount transferred to MWD. Furthermore, the model apparently assumes that this reduction will happen immediately, whether or not the Proposed Project is implemented. The DEIR/DEIS fails to justify or explain this assumption.

¹⁷ *EPIC*, 131 Cal.App. 3d at p. 354 (emphasis added).

¹⁸ DEIR/DEIS, Append. C, p.3-17.

¹⁹ Data from the U.S. Department of the Interior's annual *Compilation of Records in Accordance with Article V of the Decree of the U.S. Supreme Court of the United States in Arizona v. California* dated March 9, 1964 and from the Colorado River Board of California.

²⁰ A variety of market, pestilence, and hydrologic factors influence water consumption patterns in the Imperial Valley, challenging efforts to establish a direct correlation between actual use and expected efficiency improvements.

Response to Comment G25-9

Please refer to the Master Response on *Hydrology—Development of the Baseline* in Section 3 of this Final EIR/EIS.

The DEIR/DEIS states that under the No Action alternative, "IID would not be obligated to limit its annual diversions . . . to 3.1 MAF . . ."²¹ The quantification of IID's consumptive use right would facilitate the measurement of conservation efforts within the district, by providing for a benchmark against which future consumptive use, and transferred water, can be measured. Absent this benchmark, there is little reason to believe that IID's use, including water transferred to MWD, would change from historical levels, or that inflows to the Salton Sea would decrease as projected by the baseline/No Action alternative.

The Quantification Settlement Agreement (QSA) would cap IID's consumptive use at 3.1 MAFy. Water transferred to MWD under the 1988 agreement would be subtracted from this cap, as shown in DEIR Table 2-1.²² This cap would enable IID to continue to consume annually the average volume of water it has used in the past twelve years (2.92 MAFy), and transfer an additional 0.1 MAFy to MWD, without exceeding the cap. If in some year IID's use approached the cap, presumably some of that additional water would flow to the Sea, roughly balancing any decrease of inflows to the Sea due to actual conservation efforts.²³

Thus, the assumption that the 1988 IID/MWD conservation program will decrease inflows to the Sea by some 0.1 MAFy is wrong for three reasons:

- it contradicts the historical record, which shows no such decrease over the life of the 1988 conservation program;
- if the proposed IID-SDCWA transfer is not approved ("no action"), then the QSA will likely not be implemented, meaning that IID's use will not be capped at 3.1 MAFy and therefore there will be no baseline against which to measure IID conservation, reducing the likelihood that any measurable conservation would occur in the future; and
- even if the QSA were implemented, the 3.1 MAF cap is sufficiently high to permit IID to continue to use water at or above historical levels, *and* transfer 0.1 MAF to MWD, without exceeding the cap.

The 1988 IID/MWD water conservation program has been on-going for more than 12 years; records clearly demonstrate that it is wholly unreasonable to assume that this conservation program will decrease inflows to the Sea, even with new state and federal actions, such as quantification of IID's water right. An accurate baseline should reflect a continuation of IID drainage flows to the Salton Sea at historical levels.

²¹ DEIR/DEIS, § 2.0, p. 2-55.

²² DEIR/DEIS, § 2.0, p. 2-6.

²³ Since 1955, IID's annual consumptive use has exceeded 3.1 MAF only four times (1974, 1996-1998), the last three times in years when the Secretary of the Interior had declared a "surplus condition" for the Colorado River (data from Bureau of Reclamation and Colorado River Board of California).

G25-9

Recommendation – remove the unsubstantiated decrease in inflows to the Salton Sea attributed to the 1988 IID/MWD conservation program, from the baseline/No Action hydrologic model.

C. ACCOUNTING MODEL IS INTERNALLY INCONSISTENT

The hydrologic model is also internally inconsistent. The DEIR/DEIS assumes that the Inadvertent Overrun and Payback Policy (IOP) would not be implemented.²⁴ Yet the description of the baseline/No Action hydrologic model assumes a further decrease of inflows of 56,856 acre-feet/year of inflows due to “priority 3 entitlement enforcement of Colorado River water,”²⁵ presumably the very IOP that the DEIR/DEIS earlier assumed would *not* be implemented under the baseline/No Action alternative. In fact, the DEIR/DEIS later attributes this decrease to the IOP: “An additional 59 KAFY would be conserved for compliance with the IOP.”²⁶ Implementation of the IOP constitutes a federal action and is subject to its own NEPA requirements.²⁷ Additionally, the IOP is a *proposed* federal action closely linked to the adoption of the IID/SDCWA water transfer.²⁸ It is wholly inappropriate to include the projected impacts of a proposed federal action as a baseline condition for the hydrologic model.

G25-10

The 1988 conservation program and the IOP assumptions project a combined annual decrease of more than 0.16 MAF in baseline flows to the Salton Sea, representing more than 11% of current inflows to the Sea and more than 50% of the projected reduction due to the Proposed Project. These biased and unsubstantiated assumptions dramatically distort the entire range of impacts to the Salton Sea, by implying that environmental conditions at the Sea are deteriorating rapidly and would continue to deteriorate at a rapid rate absent the proposed project. This misconception allows the DEIR/DEIS to claim that the proposed project would only accelerate on-going actions, implying a change in degree, but not in kind. This is a gross mischaracterization, prejudicing entire sections of the DEIR/DEIS and rendering the Salton Sea sections of the DEIR/DEIS misleading and inaccurate. These two erroneous assumptions are sufficient reason to deem the DEIR/DEIS inadequate and to require the release of a new DEIR/DEIS.

D. MODEL EMPLOYS BIASED SALINITY ASSUMPTIONS

G25-11

The accounting model employs biased salinity assumptions that minimize the relative impacts of the proposed project. The DEIR/DEIS notes that the mean salinity (771 mg/L) used for the

²⁴ DEIR/DEIS, § 2.0, p. 2-54.

²⁵ DEIR/DEIS, Append. F, p.4.

²⁶ DEIR/DEIS, p. 3.7-23.

²⁷ A separate DEIS for the Implementation Agreement, Inadvertent Overrun and Payback Policy, and Related Federal Actions (Statement Number DES-01-43) was filed on January 4, 2002 by the Bureau of Reclamation. The comments of the Pacific Institute and other organizations on this DEIS are posted at the Pacific Institute website, at www.pacinst.org/salton_sea.html.

²⁸ As noted above, Reclamation issued a joint DEIS for both the Implementation Agreement (the federal action necessary to permit the water transfer to occur) and the IOP.

Response to Comment G25-10

Please refer to the Master Response on *Hydrology—Development of the Baseline* in Section 3 of this Final EIR/EIS.

Response to Comment G25-11

Please refer to the Master Response on *Hydrology—Development of the Baseline* in Section 3 of this Final EIR/EIS.

Existing Setting reflects results from the period of record from 1987-1999 (3.1-92). Yet the salinity used for the baseline assumes *maximum* concentrations (of 879 mg/L) "over the life of the Proposed Project" (3.1-93), a salinity 14% higher than existing conditions. This biased assumption minimizes the potential impacts of the proposed project relative to a baseline based upon reasonable assumptions.²⁹ The DEIR/DEIS' misleading assumptions generate the projection that the Salton Sea's baseline salinity would reach 60,000 mg/L by 2023 (3.0-15), rather than a salinity of 57,900 mg/L *after 50 years*, as projected by the to-be-published paper on Salton Sea salinity cited by the DEIR/DEIS in Appendix F.³⁰

G25-11

Recommendation – The baseline alternative should assume that salinity of the Colorado River at Imperial Dam remains relatively constant, at roughly 771 mg/L.

To its credit, the DEIR/DEIS Salton Sea Accounting Model accounts for the current precipitation or biological reduction of 0.7 – 1.2 million tons of dissolved solids within the Sea each year, meaning that the Sea's salinity is increasing more slowly than previously estimated.³¹ It is not clear, from either the DEIR/DEIS or from the draft paper it cites, how such precipitation / biological reduction rates might vary at the higher salinities projected for the Salton Sea if inflows decrease. Potentially, such precipitation rates might increase as the saturation thresholds of other salts are approached with the Sea's rising salinity, decreasing the overall rate of increase. This suggests that the model's sampling from a uniform probability distribution may tend to overestimate the rate of increase, particularly at higher salinities.

G25-12

Recommendation – The Salton Sea Accounting Model should be modified to reflect potentially higher precipitation rates at higher salinities.

G25-13

At one point, the DEIR/DEIS claims that "The Sea currently has an average salinity of approximately 44,000 mg/L," while later it claims "The existing salinity of the Sea is approximately 46 g/L."³² Assuming a higher current salinity minimizes the impacts of the Proposed Project, especially given the biased salinity and inflow assumptions present in the baseline model. That is, assuming a higher starting salinity decreases the "temporal impact" attributable to the water conservation and transfer programs.

²⁹ The Colorado River Basin Salinity Control Program works actively to implement programs to reduce the river's salt load. Interior's *Quality of Water: Colorado River Basin Progress Report* No. 19 (Jan. 1999) notes that planned and potential salinity control programs could result in a *downward* trend in Colorado River salinity at Imperial Dam (rather than upward as asserted by the DEIR (3.1-93)), suggesting that it would be entirely reasonable for the DEIR to assume that salinity remains constant at current levels.

³⁰ DEIR/DEIS, Append. F, p. 20.

³¹ DEIR/DEIS, Append. F, p. 20.

³² Compare DEIR/DEIS p. ES-15 with p. 3.0-15.

Response to Comment G25-12

A draft paper titled "Effect of Salt Precipitation on Historical and Projected Salinities of the Salton Sea: Summary Comments from Workshop at UC (Riverside), January 30-31 2001" summarizes joint expert opinions relative to salt precipitation and/or biologic reduction within the Salton Sea. This paper is the basis for the 0.7 to 1.2 million tons per year adjustments to salinity within the Salton Sea Accounting Model. The workshop participants and panel experts made no conclusions relative to increases in such effects as the salinity in the Salton Sea in the future. In addition, there are no other known scientific investigations pertinent to this issue. As a result, there is no available scientific basis for increasing precipitation and/or reduction as salinity rises in the future within the Salton Sea Accounting Model.

Response to Comment G25-13

The statement that the Sea has an average salinity of approximately 46 g/L is in error, and should actually read 45 g/L (actually 44.9) as reported elsewhere in the Draft EIR/EIS. The calculations and modeling conducted in support of the Draft EIR/EIS were conducted using the best available information as documented throughout the Draft EIR/EIS and in Appendix F, Water Quality and Hydrology. More details on the Baseline assumptions can be found in the Master Response on *Hydrology—Development of the Baseline* in Section 3 of this Final EIR/EIS.